

(3) not being a national of or ordinarily resident in Canada.

(Added Pub. L. 114-316, §2(a)(2), Dec. 16, 2016, 130 Stat. 1593.)

#### RULE OF CONSTRUCTION

Pub. L. 114-316, §2(c), Dec. 16, 2016, 130 Stat. 1594, provided that: “Nothing in this section [enacting this section] or the amendments made by this section shall be construed to infringe upon or otherwise affect the exercise of prosecutorial discretion by the Department of Justice in implementing this section and the amendments made by this section.”

### CHAPTER 213—LIMITATIONS

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#### AMENDMENTS

2010—Pub. L. 111-203, title X, §1079A(b)(2), July 21, 2010, 124 Stat. 2079, added item 3301.

2008—Pub. L. 110-340, §2(a)(3)(B), Oct. 3, 2008, 122 Stat. 3736, added item 3300.

2006—Pub. L. 109-248, title II, §211(2), July 27, 2006, 120 Stat. 616, added item 3299.

Pub. L. 109-162, title XI, §1182(b), Jan. 5, 2006, 119 Stat. 3126, added item 3298.

2004—Pub. L. 108-405, title II, §204(b), Oct. 30, 2004, 118 Stat. 2271, added item 3297.

2002—Pub. L. 107-273, div. B, title III, §3003(b), Nov. 2, 2002, 116 Stat. 1805, added item 3296.

1996—Pub. L. 104-132, title VII, §708(c)(2), Apr. 24, 1996, 110 Stat. 1297, added item 3295.

1994—Pub. L. 103-322, title XII, §120001(c), title XXXII, §320902(d)(2), title XXXIII, §330018(c), Sept. 13, 1994, 108 Stat. 2021, 2124, 2149, substituted “Child abuse offenses” for “Customs and slave trade violations” in item 3283 and added items 3286 and 3294.

1990—Pub. L. 101-647, title XII, §1207(b), Nov. 29, 1990, 104 Stat. 4832, struck out item 3286 “Seduction on vessel of United States”.

1989—Pub. L. 101-73, title IX, §961(i)(2), Aug. 9, 1989, 103 Stat. 501, added item 3293.

1988—Pub. L. 100-690, title VII, §7081(c), Nov. 18, 1988, 102 Stat. 4407, substituted “Indictments and information dismissed after period of limitations” for “Reindictment where defect found after period of limitations” in item 3288 and “Indictments and information

dismissed before period of limitations” for “Reindictment where defect found before period of limitations” in item 3289.

1984—Pub. L. 98-473, title II, §1218(b), Oct. 12, 1984, 98 Stat. 2167, added item 3292.

1951—Act June 30, 1951, ch. 194, §2, 65 Stat. 107, added item 3291.

### § 3281. Capital offenses

An indictment for any offense punishable by death may be found at any time without limitation.

(June 25, 1948, ch. 645, 62 Stat. 827; Pub. L. 103-322, title XXXIII, §330004(16), Sept. 13, 1994, 108 Stat. 2142.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§581a, 581b (Aug. 4, 1939, ch. 419, §§1, 2, 53 Stat. 1198).

Sections 581a and 581b of title 18, U.S.C., 1940 ed., were consolidated into this section without change of substance.

#### AMENDMENTS

1994—Pub. L. 103-322 struck out before period at end “except for offenses barred by the provisions of law existing on August 4, 1939”.

### § 3282. Offenses not capital

(a) IN GENERAL.—Except as otherwise expressly provided by law, no person shall be prosecuted, tried, or punished for any offense, not capital, unless the indictment is found or the information is instituted within five years next after such offense shall have been committed.

(b) DNA PROFILE INDICTMENT.—

(1) IN GENERAL.—In any indictment for an offense under chapter 109A for which the identity of the accused is unknown, it shall be sufficient to describe the accused as an individual whose name is unknown, but who has a particular DNA profile.

(2) EXCEPTION.—Any indictment described under paragraph (1), which is found not later than 5 years after the offense under chapter 109A is committed, shall not be subject to—

(A) the limitations period described under subsection (a); and

(B) the provisions of chapter 208 until the individual is arrested or served with a summons in connection with the charges contained in the indictment.

(3) DEFINED TERM.—For purposes of this subsection, the term “DNA profile” means a set of DNA identification characteristics.

(June 25, 1948, ch. 645, 62 Stat. 828; Sept. 1, 1954, ch. 1214, §12(a), formerly §10(a), 68 Stat. 1145; renumbered Pub. L. 87-299, §1, Sept. 26, 1961, 75 Stat. 648; Pub. L. 108-21, title VI, §610(a), Apr. 30, 2003, 117 Stat. 692.)

#### HISTORICAL AND REVISION NOTES

Based on section 746(g) of title 8, U.S.C., 1940 ed., Aliens and Nationality, and on title 18, U.S.C., 1940 ed., §582 (R.S. §1044; Apr. 13, 1876, ch. 56, 19 Stat. 32; Nov. 17, 1921, ch. 124, §1, 42 Stat. 220; Dec. 27, 1927, ch. 6, 45 Stat. 51; Oct. 14, 1940, ch. 876, title I, subchap. III, §346(g), 54 Stat. 1167).

Section 582 of title 18, U.S.C., 1940 ed., and section 746(g) of title 8, U.S.C., 1940 ed., Aliens and Nationality, were consolidated. “Except as otherwise expressly provided by law” was inserted to avoid enumeration of exceptive provisions.

<sup>1</sup>Section catchline amended by Pub. L. 108-21 without corresponding amendment of chapter analysis.

<sup>2</sup>So in original. Probably should be followed by a period.

The proviso contained in the act of 1927 “That nothing herein contained shall apply to any offense for which an indictment has been heretofore found or an information instituted, or to any proceedings under any such indictment or information,” was omitted as no longer necessary.

In the consolidation of these sections the 5-year period of limitation for violations of the Nationality Code, provided for in said section 746(g) of title 8, U.S.C., 1940 ed., Aliens and Nationality, is reduced to 3 years. There seemed no sound basis for considering 3 years adequate in the case of heinous felonies and gross frauds against the United States but inadequate for misuse of a passport or false statement to a naturalization examiner.

#### AMENDMENTS

2003—Pub. L. 108-21 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1954—Act Sept. 1, 1954, changed the limitation period from three years to five years.

#### EFFECTIVE DATE OF 1954 AMENDMENT

Act Sept. 1, 1954, ch. 1214, §12(b), formerly section 10(b), 68 Stat. 1145, as renumbered by Pub. L. 87-299, §1, Sept. 26, 1961, 75 Stat. 648, provided that: “The amendment made by subsection (a) [amending this section] shall be effective with respect to offenses (1) committed on or after September 1, 1954, or (2) committed prior to such date, if on such date prosecution therefor is not barred by provisions of law in effect prior to such date.”

#### FUGITIVES FROM JUSTICE

Statutes of limitations as not extending to persons fleeing from justice, see section 3290 of this title.

#### OFFENSES AGAINST INTERNAL SECURITY

Limitation period in connection with offenses against internal security, see section 783 of Title 50, War and National Defense.

#### SECTIONS 792, 793, AND 794 OF THIS TITLE; LIMITATION PERIOD

Limitation period in connection with sections 792, 793, and 794 of this title, see note set out under section 792.

### § 3283. Offenses against children

No statute of limitations that would otherwise preclude prosecution for an offense involving the sexual or physical abuse, or kidnaping, of a child under the age of 18 years shall preclude such prosecution during the life of the child, or for ten years after the offense, whichever is longer.

(June 25, 1948, ch. 645, 62 Stat. 828; Pub. L. 103-322, title XXXIII, §330018(a), Sept. 13, 1994, 108 Stat. 2149; Pub. L. 108-21, title II, §202, Apr. 30, 2003, 117 Stat. 660; Pub. L. 109-162, title XI, §1182(c), Jan. 5, 2006, 119 Stat. 3126.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §584 (R.S. §1046; July 5, 1884, ch. 225, §2, 23 Stat. 122).

Words “customs laws” were substituted for “revenue laws,” since different limitations are provided for internal revenue violations by section 3748 of title 26, U.S.C., 1940 ed., Internal Revenue Code.

This section was held to apply to offenses under the customs laws. Those offenses are within the term “revenue laws” but not within the term “internal revenue laws”. *United States v. Hirsch* (1879, 100 U.S. 33, 25 L. Ed. 539), *United States v. Shorey* (1869, Fed. Cas. No. 16,282), and *United States v. Platt* (1840, Fed. Cas. No. 16,054a) applied this section in customs cases. Hence it appears that there was no proper basis for the complete elimi-

nation from section 584 of title 18, U.S.C., 1940 ed., of the reference to revenue laws.

Meaning of “revenue laws”. *United States v. Norton* (1876, 91 U.S. 566, 23 L.Ed. 454), quoting Webster that “revenue” refers to “The income of a nation, derived from its taxes, duties, or other sources, for the payment of the national expenses.” Quoting *United States v. Mayo* (1813, Fed. Cas. No. 15,755) that “revenue laws” meant such laws “as are made for the direct and avowed purpose of creating revenue or public funds for the service of the Government.”

Definition of revenue. “Revenue” is the income of a State, and the revenue of the Post Office Department, being raised by a tax on mailable matter conveyed in the mail, and which is disbursed in the public service, is as much a part of the income of the government as moneys collected for duties on imports (*United States v. Bromley*, 53 U.S. 88, 99, 13 L. Ed. 905).

“Revenue” is the product or fruit of taxation. It matters not in what form the power of taxation may be exercised or to what subjects it may be applied, its exercise is intended to provide means for the support of the Government, and the means provided are necessarily to be regarded as the internal revenue. Duties upon imports are imposed for the same general object and, because they are so imposed, the money thus produced is considered revenue, not because it is derived from any particular source (*United States v. Wright*, 1870, Fed. Cas. No. 16,770).

“Revenue law” is defined as a law for direct object of imposing and collecting taxes, dues, imports, and excises for government and its purposes (*In re Mendenhall*, D.C. Mont. 1935, 10 F. Supp. 122).

Act Cong. March 2, 1799, ch. 22, 1 Stat. 627, regulating the collection of duties on imports, is a revenue law, within the meaning of act Cong. April 18, 1818, ch. 70, 3 Stat. 433, providing for the mode of suing for and recovering penalties and forfeitures for violations of the revenue laws of the United States (*The Abigail*, 1824, Fed. Cas. No. 18).

Changes were made in phraseology.

#### AMENDMENTS

2006—Pub. L. 109-162 inserted “, or for ten years after the offense, whichever is longer” after “of the child”.

2003—Pub. L. 108-21 substituted “Offenses against children” for “Child abuse offenses” in section catchline and amended text generally. Prior to amendment, text read as follows: “No statute of limitations that would otherwise preclude prosecution for an offense involving the sexual or physical abuse of a child under the age of 18 years shall preclude such prosecution before the child reaches the age of 25 years.”

1994—Pub. L. 103-322 substituted “Child abuse offenses” for “Customs and slave trade violations” as section catchline and amended text generally. Prior to amendment, text read as follows: “No person shall be prosecuted, tried or punished for any violation of the customs laws or the slave trade laws of the United States unless the indictment is found or the information is instituted within five years next after the commission of the offense.”

### § 3284. Concealment of bankrupt’s assets

The concealment of assets of a debtor in a case under title 11 shall be deemed to be a continuing offense until the debtor shall have been finally discharged or a discharge denied, and the period of limitations shall not begin to run until such final discharge or denial of discharge.

(June 25, 1948, ch. 645, 62 Stat. 828; Pub. L. 95-598, title III, §314(k), Nov. 6, 1978, 92 Stat. 2678.)

#### HISTORICAL AND REVISION NOTES

Based on section 52(d) of title 11, U.S.C., 1940 ed., Bankruptcy (May 27, 1926, ch. 406, §11d, 44 Stat. 665; June 22, 1938, ch. 575, §1, 52 Stat. 856).

The 3-year-limitation provision was omitted as unnecessary in view of the general statute, section 3282 of this title.

The words “or a discharge denied” and “or denial of discharge” were added on the recommendation of the Department of Justice to supply an omission in existing law.

Other subsections of said section 52 of title 11, U.S.C., 1940 ed., are incorporated in sections 151–154 and 3057 of this title.

Other minor changes of phraseology were made.

#### AMENDMENTS

1978—Pub. L. 95–598 substituted “debtor in a case under title 11” for “bankrupt or other debtor”.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–598 effective Oct. 1, 1979, see section 402(a) of Pub. L. 95–598, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

#### SAVINGS PROVISION

Amendment by section 314 of Pub. L. 95–598 not to affect the application of chapter 9 (§151 et seq.), chapter 96 (§1961 et seq.), or section 2516, 3057, or 3284 of this title to any act of any person (1) committed before Oct. 1, 1979, or (2) committed after Oct. 1, 1979, in connection with a case commenced before such date, see section 403(d) of Pub. L. 95–598, set out as a note preceding section 101 of Title 11, Bankruptcy.

### § 3285. Criminal contempt

No proceeding for criminal contempt within section 402 of this title shall be instituted against any person, corporation or association unless begun within one year from the date of the act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same act.

(June 25, 1948, ch. 645, 62 Stat. 828.)

#### HISTORICAL AND REVISION NOTES

Based on section 390 of title 28, U.S.C., 1940 ed., Judicial Code and Judiciary (Oct. 15, 1914, ch. 323, §25, 38 Stat. 740).

Word “criminal” was inserted before “contempt” in first line. Words “within section 402 of this title” were inserted after “contempt”.

The correct meaning and narrow application of title 28, U.S.C., 1940 ed., §390, are preserved, as section 389 of that title is incorporated in sections 402 and 3691 of this title.

Words “corporation or association” were inserted after “person”, thus embodying applicable definition of section 390a of title 28, U.S.C., 1940 ed. (See reviser’s note under section 402 of this title.)

### § 3286. Extension of statute of limitation for certain terrorism offenses

(a) EIGHT-YEAR LIMITATION.—Notwithstanding section 3282, no person shall be prosecuted, tried, or punished for any noncapital offense involving a violation of any provision listed in section 2332b(g)(5)(B), or a violation of section 112, 351(e), 1361, or 1751(e) of this title, or section 46504, 46505, or 46506 of title 49, unless the indictment is found or the information is instituted within 8 years after the offense was committed. Notwithstanding the preceding sentence, offenses listed in section 3295 are subject to the statute of limitations set forth in that section.

(b) NO LIMITATION.—Notwithstanding any other law, an indictment may be found or an in-

formation instituted at any time without limitation for any offense listed in section 2332b(g)(5)(B), if the commission of such offense resulted in, or created a foreseeable<sup>1</sup> risk of, death or serious bodily injury to another person.

(Added Pub. L. 103–322, title XII, §120001(a), Sept. 13, 1994, 108 Stat. 2021; amended Pub. L. 104–132, title VII, §702(c), Apr. 24, 1996, 110 Stat. 1294; Pub. L. 104–294, title VI, §601(b)(1), Oct. 11, 1996, 110 Stat. 3498; Pub. L. 107–56, title VIII, §809(a), Oct. 26, 2001, 115 Stat. 379; Pub. L. 107–273, div. B, title IV, §4002(c)(1), Nov. 2, 2002, 116 Stat. 1808.)

#### PRIOR PROVISIONS

A prior section 3286, act June 25, 1948, ch. 645, 62 Stat. 828, related to seduction on vessel of United States, prior to repeal by Pub. L. 101–647, title XII, §1207(b), Nov. 29, 1990, 104 Stat. 4832.

#### AMENDMENTS

2002—Pub. L. 107–273 repealed Pub. L. 104–294, §601(b)(1). See 1996 Amendment note below.

2001—Pub. L. 107–56 reenacted section catchline without change and amended text generally. Text read as follows: “Notwithstanding section 3282, no person shall be prosecuted, tried, or punished for any non-capital offense involving a violation of section 32 (aircraft destruction), section 37 (airport violence), section 112 (assaults upon diplomats), section 351 (crimes against Congressmen or Cabinet officers), section 1116 (crimes against diplomats), section 1203 (hostage taking), section 1361 (willful injury to government property), section 1751 (crimes against the President), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2332a (use of weapons of mass destruction), 2332b (acts of terrorism transcending national boundaries), or section 2340A (torture) of this title or section 46502, 46504, 46505, or 46506 of title 49, unless the indictment is found or the information is instituted within 8 years after the offense was committed.”

1996—Pub. L. 104–132, §702(c)(2)–(4), substituted “2332” for “2331”, “2332a” for “2339”, and “37” for “36”. Pub. L. 104–294, §601(b)(1), which amended section identically, was repealed by Pub. L. 107–273.

Pub. L. 104–132, §702(c)(1), (5), inserted “2332b (acts of terrorism transcending national boundaries),” after “(use of weapons of mass destruction),” and substituted “any non-capital offense” for “any offense”.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–273, div. B, title IV, §4002(c)(1), Nov. 2, 2002, 116 Stat. 1808, provided that the amendment made by section 4002(c)(1) is effective Oct. 11, 1996.

#### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–56, title VIII, §809(b), Oct. 26, 2001, 115 Stat. 380, provided that: “The amendments made by this section [amending this section] shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section [Oct. 26, 2001].”

#### EFFECTIVE DATE

Pub. L. 103–322, title XII, §120001(b), Sept. 13, 1994, 108 Stat. 2021, provided that: “The amendment made by subsection (a) [enacting this section] shall not apply to any offense committed more than 5 years prior to the date of enactment of this Act [Sept. 13, 1994].”

### § 3287. Wartime suspension of limitations

When the United States is at war or Congress has enacted a specific authorization for the use

<sup>1</sup> So in original. Probably should be “foreseeable”.

of the Armed Forces, as described in section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b)), the running of any statute of limitations applicable to any offense (1) involving fraud or attempted fraud against the United States or any agency thereof in any manner, whether by conspiracy or not, or (2) committed in connection with the acquisition, care, handling, custody, control or disposition of any real or personal property of the United States, or (3) committed in connection with the negotiation, procurement, award, performance, payment for, interim financing, cancelation, or other termination or settlement, of any contract, subcontract, or purchase order which is connected with or related to the prosecution of the war or directly connected with or related to the authorized use of the Armed Forces, or with any disposition of termination inventory by any war contractor or Government agency, shall be suspended until 5 years after the termination of hostilities as proclaimed by a Presidential proclamation, with notice to Congress, or by a concurrent resolution of Congress.

Definitions of terms in section 103<sup>1</sup> of title 41 shall apply to similar terms used in this section. For purposes of applying such definitions in this section, the term “war” includes a specific authorization for the use of the Armed Forces, as described in section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b)).

(June 25, 1948, ch. 645, 62 Stat. 828; Pub. L. 110-329, div. C, title VIII, §8117, Sept. 30, 2008, 122 Stat. 3647; Pub. L. 110-417, [div. A], title VIII, §855, Oct. 14, 2008, 122 Stat. 4545; Pub. L. 111-84, div. A, title X, §1073(c)(7), Oct. 28, 2009, 123 Stat. 2475.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §590a (Aug. 24, 1942, ch. 555, §1, 56 Stat. 747; July 1, 1944, ch. 358, §19(b), 58 Stat. 667; Oct. 3, 1944, ch. 479, §28, 58 Stat. 781).

The phrase “when the United States is at war” was inserted at the beginning of this section to make it permanent instead of temporary legislation, and to obviate the necessity of reenacting such legislation in the future. This permitted the elimination of references to dates and to the provision limiting the application of the section to transactions not yet fully barred. When the provisions of the War Contract Settlements Act of 1944, upon which this section is based, are considered in connection with said section 590a which it amends, it is obvious that no purpose can be served now by the provisions omitted.

Phrase (2), reading “or committed in connection with the acquisition, care, handling, custody, control or disposition of any real or personal property of the United States” was derived from section 28 of the Surplus Property Act of 1944 which amended said section 590a of title 18, U.S.C., 1940 ed. This act is temporary by its terms and relates only to offenses committed in the disposition of surplus property thereunder.

The revised section extends its provisions to all offenses involving the disposition of any property, real or personal, of the United States. This extension is more apparent than real since phrase (2), added as the result of said Act, was merely a more specific statement of offenses embraced in phrase (1) of this section.

The revised section is written in general terms as permanent legislation applicable whenever the United States is at war. (See, also, reviser’s note under section 284 of this title.)

<sup>1</sup> See References in Text note below.

The last paragraph was added to obviate any possibility of doubt as to meaning of terms defined in section 103 of title 41, U.S.C., 1940 ed., Public Contracts.

Changes were made in phraseology.

#### REFERENCES IN TEXT

Section 103 of title 41, referred to in text, probably means section 3 of act July 1, 1944, ch. 358, 58 Stat. 650, which was classified to section 103 of former Title 41, Public Contracts, prior to repeal by Pub. L. 111-350, §7(b), Jan. 4, 2011, 124 Stat. 3855. For disposition of sections of former Title 41, see Disposition Table preceding section 101 of Title 41.

#### AMENDMENTS

2009—Pub. L. 111-84 repealed Pub. L. 110-417, §855. See 2008 Amendment note below.

2008—Pub. L. 110-417, §855, which amended this section identically to amendment by Pub. L. 110-329, was repealed by Pub. L. 111-84. See 2008 Amendment note below.

Pub. L. 110-329, in first par., inserted “or Congress has enacted a specific authorization for the use of the Armed Forces, as described in section 5(b) of the War Powers Resolution (50 U.S.C. 1544(b)),” after “is at war” and “or directly connected with or related to the authorized use of the Armed Forces” after “prosecution of the war” and substituted “5 years” for “three years” and “proclaimed by a Presidential proclamation, with notice to Congress,” for “proclaimed by the President”, and, in second par., inserted last sentence.

#### EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-84, div. A, title X, §1073(c), Oct. 28, 2009, 123 Stat. 2474, provided in part that the amendment made by section 1073(c)(7) of Pub. L. 111-84 is effective as of Oct. 14, 2008, and as if included in Pub. L. 110-417 as enacted.

#### § 3288. Indictments and information dismissed after period of limitations

Whenever an indictment or information charging a felony is dismissed for any reason after the period prescribed by the applicable statute of limitations has expired, a new indictment may be returned in the appropriate jurisdiction within six calendar months of the date of the dismissal of the indictment or information, or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final, or, if no regular grand jury is in session in the appropriate jurisdiction when the indictment or information is dismissed, within six calendar months of the date when the next regular grand jury is convened, which new indictment shall not be barred by any statute of limitations. This section does not permit the filing of a new indictment or information where the reason for the dismissal was the failure to file the indictment or information within the period prescribed by the applicable statute of limitations, or some other reason that would bar a new prosecution.

(June 25, 1948, ch. 645, 62 Stat. 828; Pub. L. 88-139, §2, Oct. 16, 1963, 77 Stat. 248; Pub. L. 88-520, §1, Aug. 30, 1964, 78 Stat. 699; Pub. L. 100-690, title VII, §7081(a), Nov. 18, 1988, 102 Stat. 4407.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§556a, 587, 589 (Apr. 30, 1934, ch. 170, §1, 48 Stat. 648; May 10, 1934, ch. 278, §§1, 3, 48 Stat. 772; July 10, 1940, ch. 567, 54 Stat. 747).

This section is a consolidation of sections 556a, 587, and 589 of title 18, U.S.C., 1940 ed., without change of

substance. (See reviser's note under section 3289 of this title.)

#### AMENDMENTS

1988—Pub. L. 100-690, in section catchline, substituted "Indictments and information dismissed after period of limitations" for "Indictment where defect found after period of limitations", and in text, substituted "Whenever an indictment or information charging a felony is dismissed for any reason" for "Whenever an indictment is dismissed for any error, defect, or irregularity with respect to the grand jury, or an indictment or information filed after the defendant waives in open court prosecution by indictment is found otherwise defective or insufficient for any cause," inserted "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final" after "dismissal of the indictment or information", and inserted provisions which prohibited filing of new indictment or information where reason for dismissal was failure to file within period prescribed or some other reason that would bar a new prosecution.

1964—Pub. L. 88-520 substituted "Indictment" for "Reindictment" in section catchline, included indictments or informations filed after the defendant waives in open court prosecution by indictment which are dismissed for any error, defect, or irregularity, or are otherwise found defective or insufficient, and substituted provisions authorizing the return of a new indictment in the appropriate jurisdiction within six calendar months of the date of the dismissal of the indictment or information, or, if no regular grand jury is in session when the indictment or information is dismissed, within six calendar months of the date when the next grand jury is convened, for provisions which authorized the return of a new indictment not later than the end of the next succeeding regular session of the court, following the session at which the indictment was found defective or insufficient, during which a grand jury shall be in session.

1963—Pub. L. 88-139 substituted "session" for "term" wherever appearing.

#### § 3289. Indictments and information dismissed before period of limitations

Whenever an indictment or information charging a felony is dismissed for any reason before the period prescribed by the applicable statute of limitations has expired, and such period will expire within six calendar months of the date of the dismissal of the indictment or information, a new indictment may be returned in the appropriate jurisdiction within six calendar months of the expiration of the applicable statute of limitations, or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final, or, if no regular grand jury is in session in the appropriate jurisdiction at the expiration of the applicable statute of limitations, within six calendar months of the date when the next regular grand jury is convened, which new indictment shall not be barred by any statute of limitations. This section does not permit the filing of a new indictment or information where the reason for the dismissal was the failure to file the indictment or information within the period prescribed by the applicable statute of limitations, or some other reason that would bar a new prosecution.

(June 25, 1948, ch. 645, 62 Stat. 829; Pub. L. 88-139, §2, Oct. 16, 1963, 77 Stat. 248; Pub. L. 88-520, §2, Aug. 30, 1964, 78 Stat. 699; Pub. L. 100-690, title VII, §7081(b), Nov. 18, 1988, 102 Stat. 4407; Pub. L. 101-647, title XII, §1213, title XXV, §2595(b), title XXXV, §3580, Nov. 29, 1990, 104 Stat. 4833, 4907,

4929; Pub. L. 103-322, title XXXIII, §330011(q)(2), Sept. 13, 1994, 108 Stat. 2145.)

#### HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§556a, 588, 589 (Apr. 30, 1934, ch. 170, §1, 48 Stat. 648; May 10, 1934, ch. 278, §§2, 3, 48 Stat. 772).

Consolidation of sections 556a, 588, and 589 of title 18, U.S.C., 1940 ed., without change of substance. The provisions of said section 556a, with reference to time of filing motion, were omitted and numerous changes of phraseology were necessary to effect consolidation, particularly in view of rules 6(b) and 12(b)(2), (3), (5) of the Federal Rules of Criminal Procedure.

Words "regular or special" were omitted and "regular" inserted after "succeeding" to harmonize with section 3288 of this title.

#### AMENDMENTS

1994—Pub. L. 103-322, §330011(q)(2), repealed amendment by Pub. L. 101-647, §1213. See 1990 Amendment note below.

1990—Pub. L. 101-647, §3580, inserted a comma after "information" the second place it appeared.

Pub. L. 101-647, §2595(b), struck out "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final," after "the date of the dismissal of the indictment or information" and inserted such language after "within six calendar months of the expiration of the applicable statute of limitations,".

Pub. L. 101-647, §1213, which directed the striking of "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final," and the insertion of such language after "within six months of the expiration of the statute of limitations," was repealed by Pub. L. 103-322, §330011(q)(2). See above.

1988—Pub. L. 100-690 in section catchline substituted "Indictments and information dismissed after period of limitations" for "Indictment where defect found before period of limitations", and in text, substituted "Whenever an indictment or information charging a felony is dismissed for any reason" for "Whenever an indictment is dismissed for any error, defect, or irregularity with respect to the grand jury, or an indictment or information filed after the defendant waives in open court prosecution by indictment is found otherwise defective or insufficient for any cause," inserted "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final" after "dismissal of the indictment or information", and inserted provisions which prohibited filing of new indictment or information where reason for dismissal was failure to file within period prescribed or some other reason that would bar a new prosecution.

1964—Pub. L. 88-520 substituted "Indictment" for "Reindictment" in section catchline, included indictments or informations filed after the defendant waives in open court prosecution by indictment which are dismissed for any error, defect, or irregularity, or are otherwise found defective or insufficient, and substituted provisions authorizing, where the period of the statute of limitations will expire within six calendar months of the date of the dismissal, the return of a new indictment within six calendar months of the expiration of the applicable statute of limitations, or, if no regular grand jury is in session at the expiration of the applicable statute of limitations, within six calendar months of the date when the next regular grand jury is convened, for provisions which authorized, where the period of the statute of limitations will expire before the end of the next regular session of the court to which such indictment was returned, the return of a new indictment not later than the end of the next succeeding regular session of the court following the session at which the indictment was found defective or insufficient, during which a grand jury shall be in session.

1963—Pub. L. 88-139 substituted “session” for “term” wherever appearing.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-322, title XXXIII, §330011(q)(2), Sept. 13, 1994, 108 Stat. 2145, provided that the amendment made by that section is effective as of the date on which section 1213 of Pub. L. 101-647 took effect.

### § 3290. Fugitives from justice

No statute of limitations shall extend to any person fleeing from justice.

(June 25, 1948, ch. 645, 62 Stat. 829.)

#### HISTORICAL AND REVISION NOTES

Based on Title 18, U.S.C., 1940 ed., §583 (R.S. §1045).

Said section 583 was rephrased and made applicable to all statutes of limitation and is merely declaratory of the generally accepted rule of law.

### § 3291. Nationality, citizenship and passports

No person shall be prosecuted, tried, or punished for violation of any provision of sections 1423 to 1428, inclusive, of chapter 69 and sections 1541 to 1544, inclusive, of chapter 75 of title 18 of the United States Code, or for conspiracy to violate any of such sections, unless the indictment is found or the information is instituted within ten years after the commission of the offense.

(Added June 30, 1951, ch. 194, §1, 65 Stat. 107; amended Pub. L. 103-322, title XXXIII, §330008(9), Sept. 13, 1994, 108 Stat. 2143.)

#### AMENDMENTS

1994—Pub. L. 103-322 substituted “violate any of such sections” for “violate any of the afore-mentioned sections”.

### § 3292. Suspension of limitations to permit United States to obtain foreign evidence

(a)(1) Upon application of the United States, filed before return of an indictment, indicating that evidence of an offense is in a foreign country, the district court before which a grand jury is impaneled to investigate the offense shall suspend the running of the statute of limitations for the offense if the court finds by a preponderance of the evidence that an official request has been made for such evidence and that it reasonably appears, or reasonably appeared at the time the request was made, that such evidence is, or was, in such foreign country.

(2) The court shall rule upon such application not later than thirty days after the filing of the application.

(b) Except as provided in subsection (c) of this section, a period of suspension under this section shall begin on the date on which the official request is made and end on the date on which the foreign court or authority takes final action on the request.

(c) The total of all periods of suspension under this section with respect to an offense—

(1) shall not exceed three years; and

(2) shall not extend a period within which a criminal case must be initiated for more than six months if all foreign authorities take final action before such period would expire without regard to this section.

(d) As used in this section, the term “official request” means a letter rogatory, a request

under a treaty or convention, or any other request for evidence made by a court of the United States or an authority of the United States having criminal law enforcement responsibility, to a court or other authority of a foreign country.

(Added Pub. L. 98-473, title II, §1218(a), Oct. 12, 1984, 98 Stat. 2167.)

#### EFFECTIVE DATE

Section effective 30 days after Oct. 12, 1984, see section 1220 of Pub. L. 98-473, set out as a note under section 3505 of this title.

### § 3293. Financial institution offenses

No person shall be prosecuted, tried, or punished for a violation of, or a conspiracy to violate—

(1) section 215, 656, 657, 1005, 1006, 1007, 1014, 1033, or 1344;

(2) section 1341 or 1343, if the offense affects a financial institution; or

(3) section 1963, to the extent that the racketeering activity involves a violation of section 1344;

unless the indictment is returned or the information is filed within 10 years after the commission of the offense.

(Added Pub. L. 101-73, title IX, §961(l)(1), Aug. 9, 1989, 103 Stat. 501; amended Pub. L. 101-647, title XXV, §2505(a), Nov. 29, 1990, 104 Stat. 4862; Pub. L. 103-322, title XXXII, §320604(b), title XXXIII, §330002(e), Sept. 13, 1994, 108 Stat. 2119, 2140.)

#### AMENDMENTS

1994—Par. (1). Pub. L. 103-322 struck out “1008,” after “1007,” and inserted “1033,” after “1014.”

1990—Par. (3). Pub. L. 101-647 added par. (3).

#### EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-647, title XXV, §2505(b), Nov. 29, 1990, 104 Stat. 4862, provided that: “The amendments made by subsection (a) [amending this section] shall apply to any offense committed before the date of the enactment of this section [Nov. 29, 1990], if the statute of limitations applicable to that offense had not run as of such date.”

#### EFFECT OF THIS SECTION ON OFFENSES FOR WHICH PRIOR PERIOD OF LIMITATIONS HAD NOT RUN

Pub. L. 101-73, title IX, §961(l)(3), Aug. 9, 1989, 103 Stat. 501, provided that: “The amendments made by this subsection [enacting this section] shall apply to an offense committed before the effective date of this section [Aug. 9, 1989], if the statute of limitations applicable to that offense under this chapter had not run as of such date.”

### § 3294. Theft of major artwork

No person shall be prosecuted, tried, or punished for a violation of or conspiracy to violate section 668 unless the indictment is returned or the information is filed within 20 years after the commission of the offense.

(Added Pub. L. 103-322, title XXXII, §320902(b), Sept. 13, 1994, 108 Stat. 2124.)

### § 3295. Arson offenses

No person shall be prosecuted, tried, or punished for any non-capital offense under section 81 or subsection (f), (h), or (i) of section 844 unless the indictment is found or the information

is instituted not later than 10 years after the date on which the offense was committed.

(Added Pub. L. 104-132, title VII, §708(c)(1), Apr. 24, 1996, 110 Stat. 1297.)

### **§ 3296. Counts dismissed pursuant to a plea agreement**

(a) IN GENERAL.—Notwithstanding any other provision of this chapter, any counts of an indictment or information that are dismissed pursuant to a plea agreement shall be reinstated by the District Court if—

(1) the counts sought to be reinstated were originally filed within the applicable limitations period;

(2) the counts were dismissed pursuant to a plea agreement approved by the District Court under which the defendant pled guilty to other charges;

(3) the guilty plea was subsequently vacated on the motion of the defendant; and

(4) the United States moves to reinstate the dismissed counts within 60 days of the date on which the order vacating the plea becomes final.

(b) DEFENSES; OBJECTIONS.—Nothing in this section shall preclude the District Court from considering any defense or objection, other than statute of limitations, to the prosecution of the counts reinstated under subsection (a).

(Added Pub. L. 107-273, div. B, title III, §3003(a), Nov. 2, 2002, 116 Stat. 1805.)

### **§ 3297. Cases involving DNA evidence**

In a case in which DNA testing implicates an identified person in the commission of a felony, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable limitation period.

(Added Pub. L. 108-405, title II, §204(a), Oct. 30, 2004, 118 Stat. 2271; amended Pub. L. 109-162, title X, §1005, Jan. 5, 2006, 119 Stat. 3086.)

#### **AMENDMENTS**

2006—Pub. L. 109-162 struck out “except for a felony offense under chapter 109A,” before “no statute of limitations”.

#### **EFFECTIVE DATE**

Pub. L. 108-405, title II, §204(c), Oct. 30, 2004, 118 Stat. 2271, provided that: “The amendments made by this section [enacting this section] shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section [Oct. 30, 2004] if the applicable limitation period has not yet expired.”

### **§ 3298. Trafficking-related offenses**

No person shall be prosecuted, tried, or punished for any non-capital offense or conspiracy to commit a non-capital offense under section 1581 (Peonage; Obstructing Enforcement), 1583 (Enticement into Slavery), 1584 (Sale into Involuntary Servitude), 1589 (Forced Labor), 1590 (Trafficking with Respect to Peonage, Slavery, Involuntary Servitude, or Forced Labor), or 1592 (Unlawful Conduct with Respect to Documents

in furtherance of Trafficking, Peonage, Slavery, Involuntary Servitude, or Forced Labor) of this title or under section 274(a) of the Immigration and Nationality Act unless the indictment is found or the information is instituted not later than 10 years after the commission of the offense.

(Added Pub. L. 109-162, title XI, §1182(a), Jan. 5, 2006, 119 Stat. 3126.)

#### **REFERENCES IN TEXT**

Section 274(a) of the Immigration and Nationality Act, referred to in text, is classified to section 1324(a) of Title 8, Aliens and Nationality.

### **§ 3299. Child abduction and sex offenses**

Notwithstanding any other law, an indictment may be found or an information instituted at any time without limitation for any offense under section 1201 involving a minor victim, and for any felony under chapter 109A, 110 (except for section<sup>1</sup> 2257 and 2257A), or 117, or section 1591.

(Added Pub. L. 109-248, title II, §211(1), July 27, 2006, 120 Stat. 616.)

### **§ 3300. Recruitment or use of child soldiers**

No person may be prosecuted, tried, or punished for a violation of section 2442 unless the indictment or the information is filed not later than 10 years after the commission of the offense.

(Added Pub. L. 110-340, §2(a)(2), Oct. 3, 2008, 122 Stat. 3736.)

### **§ 3301. Securities fraud offenses**

(a) DEFINITION.—In this section, the term “securities fraud offense” means a violation of, or a conspiracy or an attempt to violate—

(1) section 1348;

(2) section 32(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff(a));

(3) section 24 of the Securities Act of 1933 (15 U.S.C. 77x);

(4) section 217 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-17);

(5) section 49 of the Investment Company Act of 1940 (15 U.S.C. 80a-48); or

(6) section 325 of the Trust Indenture Act of 1939 (15 U.S.C. 77yyy).

(b) LIMITATION.—No person shall be prosecuted, tried, or punished for a securities fraud offense, unless the indictment is found or the information is instituted within 6 years after the commission of the offense.

(Added Pub. L. 111-203, title X, §1079A(b)(1), July 21, 2010, 124 Stat. 2079.)

#### **EFFECTIVE DATE**

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as a note under section 5301 of Title 12, Banks and Banking.

## **CHAPTER 215—GRAND JURY**

Sec.

3321. Number of grand jurors; summoning additional jurors.

<sup>1</sup> So in original. Probably should be “sections”.